

ASSEMBLY BILL

No. 963

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Sections 22119.2, 22119.3, 22119.5, 22146, 22164.5, 26113, and 26135.7 of, and to add Sections 22119.6, 22458.3, 22458.5, and 22508.7 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 963, as introduced, Bonilla. Teachers' Retirement Law.

Existing law, the Teachers' Retirement Law, establishes the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program. The defined benefit is based on final compensation, credited service, and age at retirement, subject to certain variations. The State Teachers' Retirement System (STRS) is administered by the Teachers' Retirement Board. Existing law establishes the Cash Balance Benefit Program, also administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

This bill would revise and recast the definition of creditable service for purposes of the Defined Benefit Program and the Cash Balance Benefit Program, as specified. The bill would, among other things, include as creditable service for the purposes of the Defined Benefit Program, any activities that do not meet the definition of creditable service but were performed for an employer, as defined, on or before December 31, 2015, and were reported as creditable service to STRS.

The bill would revise the definition of “member” to include any person who has performed those activities. The bill would allow members and specified retired members who have performed those activities to irrevocably elect to have that service subject to coverage under a different public retirement system and excluded from coverage by the Defined Benefit Program, as specified. The bill would also allow a person who had service for those activities removed from STRS and reported to a different public retirement system, as directed by STRS, to make an irrevocable election to have all of that service and subsequent service in the same position to be subject to coverage by the Defined Benefit Program and excluded from that other system.

The bill would also require employers, upon request of the system, to provide the system with information relating to time creditable service activities and provisions of approved charters to perform creditable service, as specified.

The bill would make other conforming, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22119.2 of the Education Code is
- 2 amended to read:
- 3 22119.2. (a) “Creditable compensation” means remuneration
- 4 that is paid in cash by an employer to all persons in the same class
- 5 of employees for performing creditable service in that position.
- 6 Creditable compensation shall include:
- 7 (1) Salary or wages paid in accordance with a publicly available
- 8 written contractual agreement, including, but not limited to, a
- 9 salary schedule or employment agreement.
- 10 (2) Remuneration that is paid in addition to salary or wages,
- 11 provided it is paid to all persons who are in the same class of
- 12 employees in the same dollar amount, the same percentage of
- 13 salary or wages, or the same percentage of the amount being
- 14 distributed.
- 15 (3) Remuneration that is paid for the use of sick leave, vacation,
- 16 and other employer-approved leave, except as provided in
- 17 paragraph (4) of subdivision (c).
- 18 (4) Member contributions that are picked up by an employer
- 19 pursuant to Section 22903 or 22904.

1 (5) Amounts that are deducted from a member's remuneration,
2 including, but not limited to, deductions for participation in a
3 deferred compensation plan; deductions to purchase an annuity
4 contract, tax-deferred retirement plan, or insurance program; and
5 contributions to a plan that meets the requirements of Section 125,
6 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United
7 States Code.

8 (6) Any other payments the board determines to be "creditable
9 compensation."

10 (b) Any creditable compensation determined by the system to
11 have been paid to enhance a member's benefits shall not be credited
12 under the Defined Benefit Program. Contributions on that
13 compensation shall be credited to the Defined Benefit Supplement
14 Program. A presumption by the system that creditable
15 compensation was paid to enhance a member's benefits may be
16 rebutted by the member or by the employer on behalf of the
17 member. Upon receipt of sufficient evidence to the contrary, a
18 presumption by the system that creditable compensation was paid
19 to enhance the member's benefits may be reversed.

20 (c) "Creditable compensation" does not mean and shall not
21 include:

22 (1) Remuneration that is not paid in cash or is not paid to all
23 persons who are in the same class of employees.

24 (2) Remuneration that is paid for service that is not creditable
25 service pursuant to ~~Section 22119.5~~ *22119.5 or 22119.6*.

26 (3) Remuneration that is paid in addition to salary or wages if
27 it is not paid to all persons in the same class of employees in the
28 same dollar amount, the same percentage of salary or wages, or
29 the same percentage of the amount being distributed pursuant to
30 paragraph (2) of subdivision (a).

31 (4) Remuneration that is paid in exchange for the relinquishment
32 of unused accumulated leave.

33 (5) Payments, including, but not limited to, those for
34 participation in a deferred compensation plan; to purchase an
35 annuity contract, tax-deferred retirement plan, or insurance
36 program; and for contributions to a plan that meets the requirements
37 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
38 26 of the United States Code when the cost is covered by an
39 employer and is not deducted from the member's salary.

40 (6) Fringe benefits provided by an employer.

1 (7) Expenses paid or reimbursed by an employer.

2 (8) Severance pay, including lump-sum and installment
3 payments, or money paid in excess of salary or wages to a member
4 as compensatory damages or as a compromise settlement.

5 (9) Any other payments the board determines not to be
6 “creditable compensation.”

7 (d) An employer or individual who knowingly or willfully
8 reports compensation in a manner inconsistent with subdivision
9 (a) or (c) may be subject to prosecution for fraud, theft, or
10 embezzlement in accordance with the Penal Code. The system
11 may establish procedures to ensure that compensation reported by
12 an employer is in compliance with this section.

13 (e) For purposes of this section, remuneration shall be considered
14 paid if distributed to any person in the same class of employees
15 who meets the qualifications or requirements specified in a publicly
16 available written contractual agreement, including, but not limited
17 to, a collective bargaining agreement or an employment agreement,
18 as a condition of receiving the remuneration.

19 (f) This definition of “creditable compensation” reflects sound
20 principles that support the integrity of the retirement fund. Those
21 principles include, but are not limited to, consistent treatment of
22 compensation throughout a member’s career, consistent treatment
23 of compensation among an entire class of employees, consistent
24 treatment of compensation for the position, preventing adverse
25 selection, and excluding from compensation earnable remuneration
26 that is paid to enhance a member’s benefits. The system shall
27 determine the appropriate crediting of contributions between the
28 Defined Benefit Program and the Defined Benefit Supplement
29 Program according to these principles, to the extent not otherwise
30 specified pursuant to this part.

31 (g) The section shall become operative on July 1, 2002.

32 (h) This section shall not apply to a member subject to the
33 California Public Employees’ Pension Reform Act of 2013.

34 SEC. 2. Section 22119.3 of the Education Code is amended to
35 read:

36 22119.3. (a) “Creditable compensation” for members who are
37 subject to the California Public Employees’ Pension Reform Act
38 of 2013 means remuneration that is paid each pay period in which
39 creditable service is performed for that position. Creditable
40 compensation shall be paid in cash by an employer to all persons

1 in the same class of employees in accordance with a publicly
2 available written contractual agreement, including, but not limited
3 to, a salary schedule or employment agreement. Creditable
4 compensation shall include:

5 (1) Remuneration that is paid for the use of sick leave, vacation,
6 and other employer-approved leave, except as provided in
7 paragraph (4) of subdivision (b).

8 (2) Member contributions that are picked up by an employer
9 pursuant to Section 22903 or 22904.

10 (3) Amounts that are deducted from a member's remuneration,
11 including, but not limited to, deductions for participation in a
12 deferred compensation plan; deductions to purchase an annuity
13 contract, tax-deferred retirement plan, or insurance program; and
14 contributions to a plan that meets the requirements of Section 125,
15 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United
16 States Code.

17 (4) Notwithstanding paragraphs (6) and (8) of subdivision (c)
18 of Section 7522.34 of the Government Code, remuneration that is
19 paid for creditable service that exceeds one year in a school year.

20 (b) "Creditable compensation" does not mean and shall not
21 include:

22 (1) Remuneration that is not paid in cash or is not paid to all
23 persons who are in the same class of employees.

24 (2) Remuneration that is paid for service that is not creditable
25 service pursuant to ~~Section 22119.5~~ *22119.5 or 22119.6*.

26 (3) Remuneration that is not paid each pay period in which
27 creditable service is performed for that position.

28 (4) Remuneration that is paid in exchange for the relinquishment
29 of unused accumulated leave.

30 (5) Payments, including, but not limited to, those for
31 participation in a deferred compensation plan; to purchase an
32 annuity contract, tax-deferred retirement plan, or insurance
33 program; and for contributions to a plan that meets the requirements
34 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
35 26 of the United States Code when the cost is covered by an
36 employer.

37 (6) Fringe benefits provided by an employer.

38 (7) Expenses paid or reimbursed by an employer.

1 (8) Severance pay, including lump sum and installment
2 payments, or money paid in excess of salary or wages to a member
3 as compensatory damages or as a compromise settlement.

4 (9) Creditable compensation determined by the system to have
5 been paid to enhance a member's benefit.

6 (10) Compensation paid to the member in lieu of benefits
7 provided to the member by the employer or paid directly by the
8 employer to a third party other than the system for the benefit of
9 the member.

10 (11) Any one-time or ad hoc payments made to a member.

11 (12) Any employer-provided allowance, reimbursement, or
12 payment, including, but not limited to, one made for housing,
13 vehicle, or uniform.

14 (13) Any bonus paid in addition to compensation described in
15 subdivision (a).

16 (14) Any other payments the board determines not to be
17 "creditable compensation."

18 (c) (1) Except for purposes of calculating credited service in
19 the Defined Benefit Program and for reporting compensation
20 earnable on or after January 1, 2013, creditable compensation in
21 any fiscal year shall not exceed:

22 (A) One hundred twenty percent of the "contribution and benefit
23 base," as determined under Section 430(b) of the Social Security
24 Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member
25 whose service is not included in the federal system.

26 (B) One hundred percent of the "contribution and benefit base,"
27 as determined under Section 430(b) of the Social Security Act (42
28 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose
29 service is included in the federal system pursuant to any changes
30 in state or federal law enacted on or after January 1, 2013.

31 (2) The system shall adjust the limit based on the annual changes
32 to the Consumer Price Index for All Urban Consumers: U.S. City
33 Average, calculated by dividing the Consumer Price Index for All
34 Urban Consumers: U.S. City Average for the month of February
35 in the fiscal year preceding the adjustment by the Consumer Price
36 Index for All Urban Consumers: U.S. City Average for the month
37 of February of the previous year rounded to the nearest thousandth.
38 Notwithstanding paragraph (1) of subdivision (d) of Section
39 7522.10 of the Government Code, the adjustment shall be effective
40 annually on July 1, beginning July 1, 2014.

1 (3) The Legislature reserves the right to modify the requirements
2 of this subdivision with regard to all members subject to this
3 subdivision, except that the Legislature may not modify these
4 provisions in a manner that would result in a decrease in benefits
5 accrued prior to the effective date of the modification.

6 (4) This subdivision shall apply to compensation paid during
7 the 2013–14 fiscal year and each fiscal year thereafter.

8 (d) An employer or individual who knowingly or willfully
9 reports compensation in a manner inconsistent with subdivision
10 (a) or (b) may be subject to prosecution for fraud, theft, or
11 embezzlement in accordance with the Penal Code. The system
12 may establish procedures to ensure that compensation reported by
13 an employer is in compliance with this section.

14 (e) For purposes of this section, remuneration shall be considered
15 paid if distributed to any person in the same class of employees
16 who meets the qualifications or requirements specified in a publicly
17 available written contractual agreement, including, but not limited
18 to, a collective bargaining agreement or an employment agreement,
19 as a condition of receiving the remuneration.

20 (f) This definition of “creditable compensation” reflects sound
21 principles that support the integrity of the retirement fund. Those
22 principles include, but are not limited to, consistent treatment of
23 compensation throughout a member’s career, consistent treatment
24 of compensation among an entire class of employees, consistent
25 treatment of compensation for the position, preventing adverse
26 selection, and excluding from creditable compensation
27 remuneration that is paid to enhance a member’s benefits. The
28 system shall determine the appropriate crediting of contributions
29 according to these principles, to the extent not otherwise specified
30 pursuant to this part. A presumption by the system that creditable
31 compensation was paid to enhance the member’s benefits may be
32 rebutted by the member or by the employer on behalf of the
33 member. Upon receipt of sufficient evidence to the contrary, a
34 presumption by the system that creditable compensation was paid
35 to enhance the member’s benefits may be reversed.

36 SEC. 3. Section 22119.5 of the Education Code is amended to
37 read:

38 22119.5. (a) “Creditable service” means any of the following
39 activities performed for an employer in a position requiring a
40 credential, certificate, or permit pursuant to this code, or under the

1 appropriate minimum standards adopted by the Board of Governors
2 of the California Community Colleges, or under the provisions of
3 an approved charter for the operation of a charter school for which
4 the charter school is eligible to receive state apportionment, or
5 pursuant to a contract between a community college district and
6 the United States Department of Defense to provide vocational
7 training; activities described in subdivision (b) performed for any
8 of the following employers:

9 (1) Prekindergarten through grade 12 employer in a position
10 requiring certification qualifications as designated in regulations
11 adopted by the Commission on Teacher Credentialing pursuant
12 to Section 44001.

13 (2) Community college employer by a faculty member, as defined
14 in Section 87003, in an academic position, as defined in Section
15 87002, subject to the appropriate minimum standards adopted by
16 the Board of Governors of the California Community Colleges
17 pursuant to Section 87356, or pursuant to a contract between a
18 community college district and the United States Department of
19 Defense to provide vocational training.

20 (3) Charter school employer under the provisions of an
21 approved charter for the operation of a charter school for which
22 the charter school is eligible to receive state apportionment.

23 (b) The types of activities are any of the following:

24 (1) The work of teachers, instructors, district interns, and
25 academic employees employed in the instructional program for
26 pupils, including special programs such as adult education, regional
27 occupation programs, child care centers, and prekindergarten
28 programs pursuant to Section 22161.

29 (2) Education or vocational counseling, guidance, and placement
30 services.

31 (3) The work of ~~directors, coordinators, and assistant~~
32 ~~administrators~~ employees who plan courses of study to be used in
33 California public schools, or research connected with the evaluation
34 or efficiency of the instructional program.

35 (4) The selection, collection, preparation, classification,
36 demonstration, or evaluation of instructional materials of any
37 course of study for use in the development of the instructional
38 program in California public schools, or other services related to
39 California public school curriculum.

1 (5) The examination, selection, in-service training, *mentoring*,
2 or assignment of teachers, principals, or other similar personnel
3 involved in the instructional program.

4 ~~(6) School activities related to, and an outgrowth of, the~~
5 ~~instructional and guidance program of the school when performed~~
6 ~~in addition to other activities described in this section.~~

7 ~~(7)~~

8 (6) The work of nurses, physicians, speech therapists,
9 psychologists, audiometrists, audiologists, and other *California*
10 *public* school health professionals.

11 ~~(8)~~

12 (7) Services as a *California public* school librarian.

13 (8) *Activities connected with the enforcement of the laws relating*
14 *to compulsory education, coordination of child welfare activities*
15 *involving the school and the home, and the school adjustment of*
16 *pupils.*

17 (9) The work of employees who are responsible for the
18 supervision of persons or administration of the duties described
19 in this ~~section~~ *subdivision*.

20 ~~(b)~~

21 (c) “Creditable service” also means the work of superintendents
22 of *California public—schools: schools, and presidents and*
23 *chancellors of community college employers.*

24 (d) “Creditable service” also means the performance of
25 *California public school activities relating to, and an outgrowth*
26 *of, the instructional and guidance program of the California public*
27 *school if performed in addition to any of the activities described*
28 *in subdivision (b) or (c).*

29 (e) (1) *All of the activities performed in a position shall be*
30 *deemed “credible service” if the employer requires one or more*
31 *of the activities described in subdivision (b) or (c) to be performed*
32 *in that position for more than 50 percent of the time, as established*
33 *pursuant to Section 22138.5, for a class of employees performing*
34 *just those activities described in subdivision (b).*

35 (2) *This subdivision shall not apply to a person who performs*
36 *credible service for fewer days or hours than the employer*
37 *requires for full time as established pursuant to Section 22138.5.*

38 (3) *All of the activities performed in a position with service that*
39 *has been deemed credible pursuant to paragraph (1) shall be*
40 *subject to coverage under the Defined Benefit Program until the*

1 *member performing the activities becomes employed by the same*
2 *or a different employer in a different position at which time an*
3 *election may be made under Section 22508.*

4 ~~(e)~~

5 (f) The board shall have final authority for determining
6 creditable service to cover any activities not already specified.

7 SEC. 4. Section 22119.6 is added to the Education Code, to
8 read:

9 22119.6. (a) Creditable service shall also include any activities
10 that do not meet the definition of creditable service under Section
11 22119.5, but were performed for any employer, as defined in
12 Section 22131, on or before December 31, 2015, and were reported
13 as creditable service to the system.

14 (b) The type of activities described in subdivision (a) performed
15 by a member who becomes employed by the same or a different
16 employer in a new position on or after January 1, 2016, shall be
17 subject to Section 22119.5.

18 SEC. 5. Section 22146 of the Education Code is amended to
19 read:

20 22146. "Member" means any person, unless excluded under
21 other provisions of this part, who has performed creditable service
22 as defined in Section 22119.5 *or 22119.6* and has earned creditable
23 compensation for that service and has not received a refund for
24 that service and, as a result, is subject to the Defined Benefit
25 Program. A member's rights and obligations under this part with
26 respect to the Defined Benefit Program shall be determined by the
27 applicability of subdivision (a), (b), (c), or (d), and subject to any
28 applicable exceptions under other provisions of this part.

29 (a) An active member is a member who is not retired or disabled
30 and who earns creditable compensation during the school year.

31 (b) An inactive member is a member who is not retired or
32 disabled and who has not earned creditable compensation during
33 the current or preceding school year.

34 (c) A disabled member is a member to whom a disability
35 allowance is payable under Chapter 25 (commencing with Section
36 24001).

37 (d) A retired member is a member who has terminated
38 employment and has retired for service under the provisions of
39 Chapter 27 (commencing with Section 24201), or has retired for
40 disability under the provisions of Chapter 26 (commencing with

1 Section 24100) or retired for service or disability under the
2 provisions of Chapter 21 (commencing with Section 23400), and
3 to whom a retirement allowance is therefore payable.

4 SEC. 6. Section 22164.5 of the Education Code is amended to
5 read:

6 22164.5. (a) “Retired member activities” means one or more
7 activities identified in subdivision ~~(a) or (b)~~ (b), (c), or (d) of
8 Section 22119.5 or subdivision ~~(a) or (b)~~ (b), (c), or (d) of Section
9 26113 within the California public school system and performed
10 by a member retired for service under this part as one of the
11 following:

12 (1) An employee of an employer.

13 (2) An employee of a third party, except as specified in
14 subdivision (b).

15 (3) An independent contractor.

16 (b) The activities of an employee of a third party shall not be
17 included in the definition of “retired member activities” if all of
18 the following conditions apply:

19 (1) The employee performs an assignment of 24 months or less.

20 (2) The third-party employer does not participate in a California
21 public pension system.

22 (3) The activities performed by the individual are not normally
23 performed by employees of an employer, as defined in Section
24 22131.

25 SEC. 7. Section 22458.3 is added to the Education Code, to
26 read:

27 22458.3. Upon request from the system, each employer shall
28 provide the system with information regarding the percentage of
29 time that creditable service activities, as described in paragraph
30 (1) of subdivision (e) of Section 22119.5, are performed in a
31 position.

32 SEC. 8. Section 22458.5 is added to the Education Code, to
33 read:

34 22458.5. Upon request from the system, each employer shall
35 provide the system with information regarding the certification
36 qualifications, minimum standards, or provisions of an approved
37 charter for the operation of a charter school required to perform
38 creditable service pursuant to subdivision (a) of Section 22119.5,
39 in a position.

SEC. 9. Section 22508.7 is added to the Education Code, to read:

22508.7. (a) This section shall apply to service deemed creditable service pursuant to subdivision (a) of Section 22119.6 and a person who performs that service.

(b) (1) A member, including a member who retires on or before December 31, 2015, may elect to have all of that service subject to coverage by a different public retirement system and excluded from coverage by the Defined Benefit Program, if the member is not excluded from coverage by that public retirement system.

(2) If an election is made pursuant to this subdivision, all of the following shall apply:

(A) All service that was subject to coverage by the Defined Benefit Program shall be subject to coverage by the other public retirement system, if the member is not excluded from coverage by that public retirement system.

(B) Any member contributions and credited interest, as determined by the system, and employer contributions, less any amounts previously paid to the person, shall be returned to the employer for that service, with the system recovering from the person any amounts that were paid to the person and not recovered from withheld member contributions, credited interest, or employer contributions.

(C) Any amounts not recovered pursuant to subparagraph (B) shall be paid in full by the member before his or her service can be subject to coverage by the other public retirement system.

(3) If an election is made pursuant to this subdivision, the following shall apply:

(A) A member not subject to the California Public Employees' Pension Reform Act of 2013 in the Defined Benefit Program shall not be subject to that act in the other public retirement system.

(B) A member subject to the California Public Employees' Pension Reform Act of 2013 in the Defined Benefit Program shall be subject to that act in the other public retirement system.

(4) If an election is not made pursuant to this subdivision, all service performed shall continue to be subject to coverage by the Defined Benefit Program until the member becomes employed pursuant to subdivision (b) of Section 22119.6.

(c) (1) A person who had service removed from the system and reported to a different public retirement system, as directed by the

1 system, including a person who received a benefit on or before
2 December 31, 2015, may elect to have all of that service and
3 subsequent service in the same position subject to coverage by the
4 Defined Benefit Program and excluded from coverage by the other
5 public retirement system.

6 (2) If an election is made pursuant to this subdivision, all of the
7 following shall apply:

8 (A) All of that service and subsequent service in the same
9 position that was subject to coverage by the other public retirement
10 system shall be subject to coverage by the Defined Benefit Program
11 and reported to the system pursuant to Chapter 17 (commencing
12 with Section 23000).

13 (B) Any employee and employer contributions for that service
14 and subsequent service in the same position shall be remitted to
15 the system pursuant to Chapter 17 (commencing with Section
16 23000).

17 (3) If an election is made pursuant to this subdivision, the
18 following shall apply:

19 (A) A person not subject to the California Public Employees'
20 Pension Reform Act of 2013 in the other public retirement system
21 shall not be subject to that act in the Defined Benefit Program.

22 (B) A person subject to the California Public Employees'
23 Pension Reform Act of 2013 in the other public retirement system
24 shall be subject to that act in the Defined Benefit Program.

25 (4) If an election is not made pursuant to this subdivision, all
26 service performed will continue to be subject to coverage by the
27 other public retirement system.

28 (d) The election shall be made in writing and filed with the
29 office of the system on a form prescribed by the system on or
30 before June 30, 2016, and a copy of the election shall be filed with
31 the other public retirement system.

32 (e) Only a person who has performed service creditable under
33 subdivision (a) of Section 22119.6 can make an election under this
34 section.

35 (f) An election made pursuant to this section shall be irrevocable.

36 (g) The board shall be under no obligation to identify, locate,
37 or notify a person who has performed service creditable pursuant
38 to subdivision (a) of Section 22119.6 and is eligible to make an
39 election pursuant to this section.

SEC. 10. Section 26113 of the Education Code is amended to read:

26113. (a) “Creditable service” means any of the following activities performed for an employer in a position requiring a credential, certificate, or permit pursuant to this code, or under the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges, or under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment, or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training; activities described in subdivision (b) performed for any of the following employers:

(1) Prekindergarten through grade 12 employer in a position requiring certification qualifications as designated in regulations adopted by the Commission on Teacher Credentialing pursuant to Section 44001.

(2) Community college employer by a faculty member, as defined in Section 87003, in an academic position, as defined in subdivision (b) of Section 87001, or by an educational administrator, as defined in subdivision (b) of Section 87002, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356, or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training.

(3) Charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment.

(b) The types of activities are any of the following:

(1) The work of teachers, instructors, district interns, and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupational programs, child care centers, and prekindergarten programs pursuant to Section 22161.

(2) Education or vocational counseling, guidance, and placement services.

(3) The work of ~~directors, coordinators, and assistant administrators~~ employees who plan courses of study to be used in

1 California public schools, or research connected with the evaluation
2 or efficiency of the instructional program.

3 (4) The selection, collection, preparation, classification,
4 demonstration, or evaluation of instructional materials of any
5 course of study for use in the development of the instructional
6 program in California public schools, or other services related to
7 *California public* school curriculum.

8 (5) The examination, selection, in-service training, *mentoring*,
9 or assignment of teachers, principals, or other similar personnel
10 involved in the instructional program.

11 ~~(6) School activities related to, and an outgrowth of, the~~
12 ~~instructional and guidance program of the school when performed~~
13 ~~in addition to other activities described in this section.~~

14 ~~(7)~~
15 (6) The work of nurses, physicians, speech therapists,
16 psychologists, audiometrists, audiologists, and other *California*
17 *public* school health professionals.

18 ~~(8)~~
19 (7) Services as a *California public* school librarian.
20 (8) *Activities connected with the enforcement of the laws relating*
21 *to compulsory education, coordination of child welfare activities*
22 *involving the school and the home, and the school adjustment of*
23 *pupils.*

24 ~~(9) The work of county and district superintendents and other~~
25 ~~employees who are responsible for the supervision of persons or~~
26 ~~administration of the duties described in this section.~~ *subdivision.*

27 (10) Trustee service as described in Section 26403.

28 ~~(b)~~
29 (c) “Creditable service” also means the work of superintendents
30 of California public ~~schools.~~ *schools, and presidents and*
31 *chancellors of community college employers.*

32 (d) “Creditable service” also means the performance of
33 *California public school activities related to, and an outgrowth*
34 *of, the instructional and guidance program of the California public*
35 *school when performed in addition to any of the activities described*
36 *in subdivision (b) or (c).*

37 ~~(e)~~
38 (e) The board shall have final authority for determining
39 creditable service to cover activities not already specified.

1 SEC. 11. Section 26135.7 of the Education Code is amended
2 to read:

3 26135.7. (a) “Retired participant activities” means one or more
4 activities identified in subdivision ~~(a) or (b)~~ (b), (c), or (d) of
5 Section 22119.5 or ~~(a) or (b)~~ (b), (c), or (d) of Section 26113 within
6 the California public school system and performed by a participant
7 retired for service under this part as one of the following:

8 (1) An employee of an employer.

9 (2) An employee of a third party, except as specified in
10 subdivision (b).

11 (3) An independent contractor.

12 (b) The activities of an employee of a third party shall not be
13 included in the definition of “retired participant activities” if all
14 of the following conditions apply:

15 (1) The employee performs an assignment of 24 months or less.

16 (2) The third-party employer does not participate in a California
17 public pension system.

18 (3) The activities performed by the individual are not normally
19 performed by employees of an employer, as defined in Section
20 22131.